DOCUMENT RESUME

ED 202 299 HE 013 807

AUTHOR Bowen, Otis R.
TITLE A Governor's View.
INSTITUTION Education Commission of the States, Denver, Colo. Inservice Education Program.; State Higher Education Executive Officers Association.
SPONS AGENCY Kellogg Foundation, Battle Creek, Mich.
REPORT NO IEP-010
PUB DATE Jul 78
NOTE 12p.; Paper presented at a Seminar for State Leaders in Postsecondary Education (Colorado Springs, CO, July 1978).

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS Accreditation (Institutions); Agency Cooperation; *Certification; Eligibility; *Government School Relationship; Higher Education; *Institutional Evaluation; *Private Colleges; *State Licensing Boards; State Officials; *State Standards
IDENTIFIERS *Seminars for State Leaders Postsec Ed (ECS SHEEO)

ABSTRACT

Factors that have intensified concern with state licensing and oversight of postsecondary education, the current state of licensing and oversight, and areas that need to be addressed are considered. Conditions that have led to concern with state licensing and oversight include an enlarged number of institutions, the increase in federal and state student aid programs, the consumer concern for fair practices in postsecondary education, and the impending decline in the traditional student age group. Increased incentives to adjust educational realities in order to increase enrollment could make state oversight of traditional colleges and universities an important concern. Forty-eight states are exercising some sort of licensing authority over private nondegree-granting institutions, and 43 states have licensing authority for private degree-granting institutions. Additionally consumer protection laws have been enacted in states to prevent unfair or deceptive practices. Model legislation for state laws to improve licensing and oversight is outlined that was designed by a task force of the Education Commission of the States. A problem area is the many new degree-granting institutions that operate across state lines and offer a range of nontraditional programs. It is not evident who should accredit these educational offerings. Another problem is the exemption of certain kinds of institutions from regulation. There is also a need for state licensing agencies to coordinate their efforts with other state agencies, including the attorney general's office and state consumer protection agencies. Steps that can be taken to improve state laws include raising the consciousness of governors and legislators regarding the need for oversight of postsecondary education. (SW)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED202299

Inservice Education Program (IEP)

Paper Presented at a Seminar for State Leaders in Postsecondary Education

A GOVERNOR'S VIEW

U.S. DEPARTMENT OF EDUCATION
NATIONAL INSTITUTE OF EDUCATION
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

☐ This document has been reproduced as received from the person or organization originating it.
☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official NIE position or policy.

OTIS R. BOWEN, M.D.

Governor of Indiana

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY

ECS

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

Colorado Springs, Colorado
July 1978

IEP Paper No. 010

HE 013 807

Education Commission of the States

Inservice Education Program (IEP)
Education Commission of the States
1860 Lincoln Street, Suite 300
Denver, Colorado 80295

SHEEO

The IEP Program has been supported primarily by the W. K. Kellogg Foundation with additional funds from the Education Commission of the States, the Frost Foundation and the State Higher Education Executive Officers

A GOVERNOR'S VIEW

I am honored to be with you today. The effort to which you are addressing yourselves is important for educators and policy makers. It is especially important for those of us in the states, because the states have the basic responsibility for oversight and licensing of postsecondary education. We need to discharge that responsibility with the greatest of care.

I salute two groups who are cosponsoring this important workshop -- the U.S. Office of Education's Division of Eligibility and Agency Evaluation and the Inservice Education Program of the Education Commission of the States. The U.S. Office, through these efforts, should become more sensitive to the interests and needs of institutions and states as each of you present react to the American Institute for Research report, "A Study of State Oversight in Postsecondary Education," and as you air your concerns about what is and should be happening.

The Education Commission of the States -- which I had the privilege of chairing during the past year -- has demonstrated its unique role in bringing together educators and other leaders in government and cognate agencies and organizations.

I note with pleasure the array of cooperating organizations. This list is testimony to the imperative need to address problems through discussion by many groups which have vital parts to play in coming up with solutions: the Council on Postsecondary Accreditation, the Federal Interagency Committee on Education, the National Association of State Administrators and Supervisors of Private Schools, the National Council of State Legislators,

the National Governors' Conference, the Postsecondary Education Convening Authority, the State Higher Education Executive Officers, the United States Department of Defense, and the Veterans Administration.

As the professional and policy makers in the states and the statewide, regional and national organizations and agencies most responsible for the success of the effort, you will make crucial decisions that will shape the nature of postsecondary education for a long time to come. To remind you of your responsibilities and challenges is superfluous. Your tasks are difficult, complex and always beset with conflicting pressures. Tonight, I want to share with you the interests and concerns of at least one governor in the area of state licensing and oversight of postsecondary education. I hope my remarks will be of help during the conference as you address these issues in greater detail.

I am going to talk about three things. First, I will comment on why I believe there is increasing interest in the issue. Second, I want to review where I perceive we currently are in licensing and oversight of postsecondary education. Finally, I want to identify what I think needs to be done.

The question of licensing and oversight of postsecondary institutions is not a new one. The issue has taken on new importance in recent years. There are a number of reasons for this awakening concern. First, our official definition of public interest changed from higher education to postsecondary education with the passage of the Higher Education Amendments of 1972. Suddenly, instead of dealing with 3,000 institutions in the country, we are concerned with an estimated 14,000. This rich diversity of educational opportunity promises the availability of an institutionalized

educational program meeting the needs of virtually anyone wishing to pursue postsecondary education or training.

Along with the enlarged universe of institutions, federal and state student aid programs have gone a rapid period of growth. There will be $4 billion worth of subsidies available to students in the next school year.

Unfortunately, there have been several scandals in the last few years where institutions have misrepresented the education and job opportunities for graduates. In some instances, these institutions have gone out of business in mid-course, leaving nearly all the students and the federal government liable for guaranteed student loans. All of education suffers under such isolated circumstances, especially when the facts become exaggerated. Government student aid programs are threatened and the ability to help needy students obtain a legitimate education is jeopardized.

The consumer movement has gained momentum in the last few years. Since education is one of the most important and costly investments that many Americans make, deceitful practices, misleading advertising and disadvantageous contracts are at least as important in education as in the area of consumer loans. Indeed, consumers seem to be most pained by the deceit on the part of some educational institutions, because we place so much importance and faith in the educational system as the way to a better life in America and because we presume that educators should be pace setters in morality and ethics.

The final factor which has intensified concern with state licensing and oversight is the impending decline in the traditional student age group in most places. All institutions will face keener competition for students.

There will be increased incentives to adjust educational realities in order to increase enrollment. This could make state oversight of traditional colleges and universities as important as the current concern with proprietary schools.

We all know that a small proportion of institutions cause our problems. Some are not financially stable and face bankruptcy. Some have inferior programs, staffed by poorly trained instructors. Others practice questionable tuition refund practices. Whatever the problem, the state has a role in protecting consumers and taxpayers from those few marginal operators.

A great deal of progress has been made. Laws adopted in most states have improved states' licensing and oversight practices in postsecondary education institutions. In 1973, the Education Commission of the States sponsored a national task force to develop model legislation for approval of postsecondary educational institutions to operate and the authorization to grant degrees. Some members of that task force are here and continuing this important effort. The legislation proposed in the task force report suggested some fundamental components for state law:

1. To establish minimum standards of educational quality, ethical and business practices, health and safety and fiscal responsibility; and to protect the public against substandard, transient, unethical or fraudulent institutions and practices.
2. To prohibit false or misleading educational practices.
3. To regulate the use of academic terminology in naming educational institutions.
4. To prohibit misleading representation by educational institutions or their agents.
5. To provide for preservation of essential academic records.

As an aside, I am pleased that Indiana has equalled or exceeded all the provisions of the ECS model legislation, according to the AIR study.

The AIR report indicates that private sector officials in 23, or about half, of the states report some use of the ECS model legislation during the past five years. According to the American Institutes for Research report, 48 states, as of January 1977, also are exercising some sort of licensing authority over private nondegree-granting institutions. Forty-three states have licensing authority for private degree-granting institutions. True progress has been made!

Consumer protection laws are broader in coverage than just education. Virtually all states have laws to prevent unfair or deceptive practices in trade and commerce. These statutes allow states to police deceptive practices. Many of these laws are not part of the state educational laws and regulations, but they provide a major tool to deal with institutional abuse of student consumers.

States have come a long way in the development of appropriate legislation. There is, however, a great deal left to do. Many states do not have full protection, and a few have almost none. According to the AIR report, state laws which cover much more than the ECS model objectives are outnumbered by those state laws providing no coverage. A good start has been made but there is a continuing challenge before us.

Two tasks particularly need to be addressed. The first is to identify what needs to be done; the second is to decide how it can be done.

The list of what needs to be done is constantly changing. You know it well, from firsthand experience. High on the list is the problem presented

by the many new degree-granting institutions which operate across state lines and offer a range of nontraditional programs. Some of these institutions operate only on military bases -- which may not technically be subject to state agency oversight. There is a tangled area involving the jurisdictions of the private accrediting agencies. It is not evident who should accredit these wandering educational offsprings, the region of the home institution or the region of the branch campus. The intrusion of these branch campuses complicates the planning and coordination of education within the state. I hope that this conference can make headway in helping to solve this problem.

Another problem is the exemption of certain kinds of institutions from regulation. The most important exemptions allow schools that are accredited, or existed prior to a certain date, to be regulated indirectly by a professional board -- such as cosmetology examiners -- or are incorporated as a charitable or nonprofit institution. These institutions operate with state oversight.

Some of these exclusions are based on valid reasons. Others are the result of effective lobbies in the state. If, as I believe, consumer protection in education becomes more important as enrollments decline, present laws must be made more inclusive in some states before a major scandal forces us to act in a hasty manner.

There is a need for state licensing agencies to coordinate their efforts with other state agencies. State agencies in postsecondary licensing need to maintain adequate liaison with the attorneys' general offices and state consumer protection agencies. The state agency needs to coordinate its efforts with the state office which is responsible for course approval for the Veterans Administration.

It is important that state licensing agencies communicate with each other. Often, it takes the coordination of several states to put a stop to abusive practices. There also needs to be improved communications between the states and the federal offices concerned about institutional eligibility and federal programs. There needs to be continued rapport with the accrediting agencies -- regionally and nationally.

I note that neither the excellent array of questions to be addressed in your "Working Parties" (Discussion groups) nor the AIR report touches extensively on the need for an interface between approval of institutions, on the one hand, and the licensing of individual practitioners on the other. This topic is outside of the immediate scope of this workshop, but it should be one that should be addressed at another time.

Some of my recommendations may mean more money and more staff. There is also a necessity to strengthen state laws. These efforts can be frustrated unless all of us are sensitive to the political strategies that lead to success.

There are some basic steps necessary to assure improved state laws.

One step must involve raising the consciousness of governors and legislators regarding the need for oversight of postsecondary education. Good public relations is important, because political persons respond to the concerns of their constituents. Public knowledge can help develop a constituency that will keep the need alive and visible.

Another step should be assisting knowledgeable legislators in developing the kind of legislation which addresses the need. It is important to make certain the legislation is accurately and adequately drafted.

Private school owners and associations, as well as other affected organizations must be involved in this drafting process. The less conflict and divisiveness, the more likely the legislation will be enacted.

Too often the intent and the practice of government are in conflict. It is important that conflicts between state agencies be discussed, clarified and resolved and that all of the involved administrative agencies understand and support legislative proposals before and after they become law.

These recommendations are perhaps too basic, but they are too often forgotten. Good state government and good state policy are needed to ward off the danger of federal pre-emption. Education is a state responsibility. We recognize the increasing federal support of students and the desirability of cooperation with the federal government. Because of the constitutional, traditional and fiscal responsibilities of the states, however, we must be reluctant to relinquish claims of authority and responsibility to federal levels. Rather, we must be creative partners -- with state and federal groups each contributing to the process.

State action is a precondition of accreditation and federal recognition of eligibility. An institution must exist to be accredited or be eligible for federal funds. States determine the minimal levels of fiscal and educational integrity for institutional operations. This is the foundation on which further assessments of quality and eligibility for federal programs are built.

It is a triad, a three-way partnership. We must built it to assure that we provide the best education possible to our citizens, that we protect the interests of taxpayers, and that institutions are not saddled with overly restrictive laws -- state or federal.

I have stressed the importance of the state role today and pointed out what I believe are some of the critical problems. That stress flows from my experience and perspective and the fact that the major emphasis of this meeting is on the state's role. But, I must also emphasize that we need to remain sensitive to the crucial roles that private accrediting agencies and the federal government play. Private accrediting is a key to assuring educational quality. Standards must be set with the full cooperation of the educational community to be affected.

The federal government is concerned about determining eligibility of institutions to participate in federal student assistance programs. In general, its agencies depend upon state authorization and accreditation to make their determinations. If the efforts of the states and accrediting groups are not satisfactory, there will be increasing pressure for the federal government to increase its involvement in the affairs of post-secondary education.

You have a tremendous challenge: to make policy and to administer and adjudicate the delicate and yet important matters involved in the over-sight role of the states in licensing and authorizing postsecondary educational institutions. Few, if any, challenges in education are more important. And yet, you must have much intestinal fortitude in developing and implementing solutions -- because often you stand virtually alone amid the cross-currents of opinions and pressures. You might take some solace however in noting, as Edmund Burke noted, that "All government, indeed every human benefit and enjoyment, every virtue, and every prudent act, is founded on compromise and barter."

I wish you good luck in your efforts. It is much easier to be the opening speaker in these affairs. I can challenge you, point to the difficulty of the task and bid you good luck. I then leave it to each of you to find solutions.

I hope my remarks can provide some beacons to guide your deliberations. As Lord William Beveridge noted, "The object of government...is not the glory of rulers or of races, but the happiness of...man." I wish you well in meeting that objective. If this meeting is successful, and it has the earmarks of success, then the ultimate beneficiaries will be the students and the public whom we all serve.